

R277. Education, Administration.

R277-616. Education for Homeless and Emancipated Students.

R277-616-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Domicile" means the place which a person considers to be the permanent home, even though temporarily residing elsewhere.
- C. "Emancipated minor" means:
 - (1) a child under the age of 18 who has become emancipated through marriage or by order of a court consistent with Section 78A-6-801 et seq.; or
 - (2) a child recommended for school enrollment as an emancipated or independent or homeless child/youth by an authorized representative of the Utah State Department of Social Services.
- D. "Enrolled" for purposes of this rule means a student has the opportunity to attend classes and participate fully in school and extracurricular activities based on academic and citizenship requirements of all students.
- E. "Homeless child/youth" means a child who:
 - (1) lacks a fixed, regular, and adequate nighttime residence;
 - (2) has primary nighttime residence in a homeless shelter, welfare hotel, motel, congregate shelter, domestic violence shelter, car, abandoned building, bus or train station, trailer park, or camping ground;
 - (3) sleeps in a public or private place not ordinarily used as a regular sleeping accommodation for human beings;
 - (4) is, due to loss of housing or economic hardship, or a similar reason, living with relatives or friends usually on a temporary or emergency basis due to lack of housing; or
 - (5) is a runaway, a child or youth denied housing by his family, or school-age unwed mother living in a home for unwed mothers, who has no other housing available.
- F. "Parent" means a parent or guardian having legal custody of a minor child.
- G. "School district of residence for a homeless child/youth" means the school district in which the student or the student's legal guardian or both currently resides or the charter school that the student is attending for the period that the student or student's family satisfies the homeless criteria.
- H. "USOE" means the Utah State Office of Education.

R277-616-2. Authority and Purpose.

- A. This rule is authorized under Article X, Section 3 of the Utah State Constitution, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, Section 53A-11-101.5 which requires that minors between the ages of 6 and 18 attend school during the school year, Section 53A-2-201(5) which makes each school district or charter school responsible for providing educational services for all children of school age who reside in the school district or attend the school, and the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle

B, as amended, 42 U.S.C. 11431 through 11435.

B. The purpose of this rule is to ensure that homeless children/youth have the opportunity to attend school with as little disruption as reasonably possible.

R277-616-3. Criteria for Determining Where a Homeless or Emancipated Student Shall Attend School.

A. Under the McKinney-Vento Homeless Assistance Act of 1987, Title VII, Subtitle B, as amended, 42 U.S.C. 11431 through 11435, homeless students are entitled to immediate enrollment and full participation even if they are unable to produce records which may include medical records, birth certificates, school records, or proof of residency normally required for enrollment.

B. A homeless student shall:

(1) be immediately enrolled even if the student does not have documentation required under Sections 53A-11-201, 301, 302, 302.5 and Section 53A-2-201 through 213;

(2) be allowed to continue to attend his school of origin, to the extent feasible, unless it is against the parent/guardian's wishes; be permitted to remain in the student's school of origin for the duration of the homelessness and until the end of any academic year in which the student moves into permanent housing; or

(3) transfer to the school district of residence or charter school if space is available as defined under Subsection R277-616-11.

B. Determination of residence or domicile may include consideration of the following criteria:

(1) the place, however temporary, where the child actually sleeps;

(2) the place where an emancipated minor or an unaccompanied child/youth or accompanied child's/youth's family keeps its belongings;

(3) the place which an emancipated minor or an unaccompanied child/youth or accompanied child's/youth's parent considers to be home; or

(4) such recommendations concerning a child's domicile as made by the State Department of Human Services.

C. Determination of residence or domicile may not be based upon:

(1) rent or lease receipts for an apartment or home;

(2) the existence or absence of a permanent address; or

(3) a required length of residence in a given location.

D. If there is a dispute as to residence or the status of an emancipated minor or an unaccompanied child/youth, the issue may be referred to the USOE for resolution.

E. The purpose of federal homeless education legislation is to ensure that a child's education is not needlessly disrupted because of homelessness. If a child's residence or eligibility is in question, the child shall be admitted to school until the issue is resolved.

R277-616-4. Transfer of Guardianship.

A. If guardianship of a minor child is awarded to a resident of a school district by action of a court or through appointment by a school district under Section 53A-2-202, the child becomes a resident of the school district in which the guardian resides.

B. If a child's residence has been established by transfer of legal guardianship, no tuition may be charged by the new school district of residence.

KEY: compulsory education, students' rights

Date of Enactment or Last Substantive Amendment: August 8, 2011

Notice of Continuation: November 11, 2010

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-2-201(5); 53A-2-202